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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,513	02/27/2004	Brian Campbell	BCAP100US	7425

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EXAMINER

ABBOTT, YVONNE RENEE

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/788,513

Applicant(s)

CAMPBELL, BRIAN

Examiner

Yvonne R. Abbott

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/27/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 2 and 3, "display graphics" is plural, and in claim 1 it is singular, therefore there lacks antecedent basis for the plural terminology.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mayfield (5,261,702) in view of Selman (4,852,282). Mayfield shows a board (10) structure capable of use as a pet care system comprising a slender display board having a front face and a rear face, a display graphic (see Fig. 1) being permanently affixed to the front face of the display board, a hanger being at least attached to the rear face of the display board (col. 4, lines 46-55) via a magnet or other suspension device wherein the hanger can be used to attach the display board to a substantially vertical surface, a

graphic instrument (Fig. 8) used to deposit erasable marks to at least the front face of the display board, an eraser element (Fig. 9) wherein the eraser eradicates the erasable marks deposited by the graphic instrument; and, a plurality of shaped display members (18) having at least a first side and a second side wherein the second side is adapted to be removably affixed to the display board's front face (col. 5, lines 52-54), wherein the shaped members are removably affixed in a position on the display board, each shaped display member able to be removably affixed in any position on the board a plurality of times; wherein the board and graphics may be a predetermined color (col. 5, lines 26-40, 56-60). With respect to claims 12-26, although the claimed shapes are not specifically disclosed by Mayfield (i.e. a bird, a pill container), it is disclosed that Mayfield's care management system uses various shapes, colors or other recognizable representations (e.g. letters) to communicate the action to be performed, therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide that claimed shapes if one wished to communicate that, for example, the dog should be walked or receive it's medicine at a particular time. Mayfield, however, does not show a receptacle for the graphic instrument of Fig. 8. Selman teaches display system comprising a graphic instrument (64) and a graphic instrument receptacle or clip (66). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the board of Mayfield with a graphic instrument receptacle attached to the display board wherein the graphic instrument can

be removably attached as taught by Selman so that the instrument remains with the board and does not get lost.

4. Claims 1, 4-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mayfield (5,261,702) in view of Labrot (6,345,821). Mayfield discloses the elements described above in paragraph (3). Mayfield, however, does not show a receptacle for the graphic instrument of Fig. 8. Labrot teaches display system comprising a graphic instrument (56,58), an eraser element (60), and a graphic instrument receptacle (52) tethered via string (51) to board hook (54). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the board of Mayfield with a graphic instrument receptacle tethered to the display board wherein the graphic instrument can be removably attached as taught by Labrot so that the instrument remains with the board and does not get lost.

5. Claims 1, 4-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mayfield (5,261,702) in view of Sohl et al. (2004/0229202). Mayfield discloses the elements described above in paragraph (3). Mayfield, however, does not show that the graphic instrument or eraser are tethered. Sohl et al. teach a dry erase board having a marker (22) attached to the board in various ways (Figures 11-15) including a tether (36). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the board of Mayfield with a tether as a means of attaching the graphic instrument and eraser to the display board so that the

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instruments can be conveniently stored, and they remain with the board so they don't get lost.

6. Claims 1-3, 6-8, 10, and 12-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Selman (4,852,282) in view of Daugherty (D458,303) and further in view of Mayfield (5,261,702). Selman shows a board structure capable of use as a pet care system comprising a slender display board having a front face and a rear face, a display graphic (16) showing the days of the week being permanently affixed to at least the front face of the display board, a hanger (14) being at least attached to the rear face of the display board wherein the hanger can be used to attach the display board to a substantially vertical surface, a graphic instrument (64) used to deposit erasable marks to at least the front face of the display board, a graphic instrument receptacle (66) attached to the display board wherein the graphic instrument can be removably attached; and wherein the board is housed in a frame (26). Selman, however, does disclose an eraser element or a plurality of shaped display members. Daugherty teaches a magnetic calendar which can be used as a pet care system which comprises display graphics showing the days of the week, an erasable marker held in a receptacle, and a plurality of shaped magnetic members adapted to be removably affixed to the board's front face, wherein one of the shaped display members is in the shape of a dog, and there are various other shaped displays. With respect to claims 2, 3, and 14-26, to make the display graphic read "a.m." and "p.m." or have the shaped members display other animals, a fire hydrant, etc, would have been obvious to one of ordinary skill in

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the art as taught by Daugherty depending upon which task or chore one wished to be completed. Although both Selman and Daugherty disclose erasable markers, an eraser element is not specifically disclosed. Mayfield teaches an eraser (Fig. 9) for erasing marks made by an erasable marker. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the eraser element taught by Mayfield in order to provide a reusable means of erasing the board.

7. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Daugherty (D458303) in view of Mayfield (5,261,702). Daugherty shows a method of recording when pet care has been or needs to be complete comprising: using a slender display board having a front face and a rear face, a permanent display graphic is affixed on the display board, and at least one of a plurality of shaped display members having at least a first side and a second side wherein the second side is adapted to be removably affixed to at least the display board's front face, performing pet care task (e.g. "feed pet"), moving the shaped display member from one removably affixed position on the display board to another removably affixed position on the display board when a pet care task is complete or needs to be completed, wherein the shaped members are removably attached to the display board in a position on the display board, removing and placing the shaped display in another position as pet care tasks are completed or needs to be completed, each shaped display representing a performed pet care task, each display shape moving and placing a plurality of times to display pet care tasks, marking on the board using a graphic marker making temporary markings.

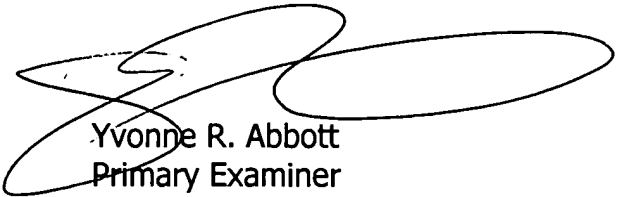
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Daugherty, however, does not show wherein the display board is affixed on a substantially vertical surface, the display board having a front face and a rear face, the rear face having a vertical surface attachment means, or that the graphic markings are erased with an eraser. Mayfield teaches a hanger being at least attached to the rear face of the display board (col. 4, lines 46-55) via a magnet or other suspension device wherein the hanger can be used to attach the display board to a substantially vertical surface, and an eraser (Fig. 9) for erasing marks made by an erasable marker. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide that the board of Daugherty is affixed on a vertical surface or hung as taught by Mayfield so that it can be easily viewed by many, viewed at a distance, or positioned out of the reach of children. To provide an eraser element would have been obvious as taught by Mayfield if one wished to provide a reusable means of erasing or otherwise cleaning the board.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne R. Abbott whose telephone number is (703)308-2866. The examiner can normally be reached on Mon-Thurs 9:30am-6:00pm. On or about April 4, 2005, the examiner's current phone number (703) 308-2866 will be disconnected. If an attempt to contact the examiner at the previous mentioned number is unsuccessful, the examiner may be reached at (571) 272-6896.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on (703)305-7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne R. Abbott
Primary Examiner
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